

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on April 7, 2003 at 10:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Bob Keenan (R)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 13, 3/29/2003; HB 120,
3/19/2003; HB 5, 3/29/2003; HB 9,
3/29/2003

Executive Action: HB 9; HB 5; HB 7; HB 261; HB 631;
HB 18; SB 72; SB 388; SB 134; HB
19; SB 18

HEARING ON HB 13

Sponsor: REP. DAVE LEWIS, HD 55, Helena.

Proponents: Tom Schneider, Montana Public Employees'
Association
Todd Lovshin, Montana Education Association
and Montana Federation of Teachers
Jackie Andrich, Montana Education Association
and Montana Federation of Teachers
Cathy Burwell, Helena Chamber of Commerce
Quentin Kujala, Montana Association of Fish and
Wildlife Biologists

Opponents: Chuck Swysgood, Director, Governor's Budget
and Program Planning Office
John McEwen, Administrator, State Personnel
Division, Department of Administration

Opening Statement by Sponsor:

REP. DAVE LEWIS, HD 55, Helena, explained this is a tough bill for him to sponsor since he roughly has 4,000 state employees in his district. The original intent of the bill was to provide \$8.1 million to partially address the increase in health insurance for state employees. The House State Administration Committee added an additional \$.45 per hour. Money transferred from the work comp fund by HB 363 would pay for termination costs of 1,000 state employees. State employees will see a reduction in take-home pay because the cost of insurance is going to increase more than the dollars provided in HB 13 will pay for. This will offset the costs of insurance for individuals and does nothing for those people who have dependents covered under the insurance package.

Proponents' Testimony:

Tom Schneider, representing the Montana Public Employees' Association (MPEA), stated 20,000 will be affected by HB 13 if you look at employees and families. Mr. Schneider submitted a petition which has been signed by state employees.

EXHIBIT(fcs74a01) There are state employees in every legislative district in Montana. Mr. Schneider read a statement of intent regarding state employment compensation practices from Montana

Code Annotated. **Mr. Schneider** submitted written testimony prepared by the State Personnel Division which reflects Montana as being four percent behind the market. **EXHIBIT(fcs74a02)** Many state employees have survived Montana's previous budget crises and wage freezes. State employees do not want to go through this again. A four percent wage increase will cost \$33-\$34 million. **Mr. Schneider** pointed out that because this wage increase will not be passed, state employees will be contributing this amount to help ease the budget crises. State employees deserve at least the amount of money necessary to cover the increase cost of health insurance, so they can avoid a pay cut. The state used to be the leader in the public sector in Montana, but this has changed, and state employees are moving on. **Mr. Schneider** is dismayed that the Directors of the different Departments of State government have not come before the committees and stated that they do not want to lose their employees. **Mr. Schneider** stated they have agreed to the \$.45 cent per hour increase because it will help the employees at the bottom who will struggle with the cost of dependent health insurance.

Todd Lovshin, representing Montana Education Association and Montana Federation of Teachers, supports HB 13 and thanked the House State Administration Committee and **REP. LEWIS**. He is proud of state employees and listed many jobs performed by state employees. These employees continue to provide quality services despite recent budget cuts, hiring freezes, and staffing reductions. State employees can collectively organize and bargain for better working conditions. In the three previous past sessions, MEA-MFT has been able to reach an agreement with the Governor for its members and all state employees. This is the process they prefer. In this biennium, they have made reasonable proposals by balancing the needs of state employees and the abilities of the state to meet those needs. State employees are not rich and did not go into public services to become rich. These employees are committed to the work they do. On February 28, they met with the Governor's representatives and proposed a \$.45 cent per hour raise effective January 1st in each year of the biennium and continue to accept the Governor's increases in employee's health insurance contributions. The members of MEA-MFT are asking for a bare-bones basic commitment of \$.45 per hour. **Mr. Lovshin** understands the Governor is asking for an amendment to change the effective date from January to July. MEA-MFT opposes this amendment. If the Governor's office has more money to spend, they would like to see the money go to salary increases. **Mr. Lovshin** finds it interesting that the Governor has spoken out against HB 360 because of FTE reductions, while proposing that their amendment be paid for with vacancy savings. The Governor has proposed a four percent vacancy savings rate. Currently, HB 113's salary increase is contingent

upon passage of personnel cost savings in HB 360. MEA-MFT supports this as a funding mechanism. If another realistic funding source could be found, MEA-MFT would support it. They feel the \$.45 per hour increase is the minimal amount this Legislature should grant to state employees. **Mr. Lovshin** closed by stating he is incredibly proud to work with Montana state employees because they are incredibly dedicated, caring, hard-working people who believe in the services they provide. **Mr. Lovshin** provided the Committee with copies of petitions he received from state employees exhibiting support of HB 13.

EXHIBIT (fcs74a03)

Jackie Andrich, a child support worker for the State of Montana in Butte, stated they have many people in their office who desperately need health insurance. Without the pay raise, these employees will have to make hard choices. The \$.45 per hour raise in pay will help these employees pay this increased cost.

Ms. Andrich stated a pay freeze will rollback the employees' paychecks two years. They are currently doing more with less, and they have had many people leave their Butte office. Most of the people in her office make less than \$30,000 and a good number of them make less than \$20,000. She believes the .45 per hour is fair because it will apply straight across the board. **Ms.**

Andrich spoke about the work performed by state employees and its importance to the general public. The work they perform matters to the citizens of Montana.

Cathy Burwell, representing the Helena Chamber of Commerce, supports HB 13 and thanked **REP. LEWIS** for bringing the bill forward. State government makes up about 35 percent of the Helena economy, so the stability of state workers is very important to the Helena area. This \$.45 raise will only cover the cost of these employees' increase in insurance. Some of these state workers have second jobs in Helena because they cannot make it on their state job alone. **Ms. Burwell** reminded the Committee that HB 13 is very important for the stability of income for state workers throughout Montana, not just in Helena. It is crucial to pay state workers more in light of the fact that they have had increased workloads due to less workers in state government.

Quentin Kujala, Montana Association of Fish and Wildlife

Biologists, appeared before the Committee on his own time. **Mr. Kujala** appreciates the Committee's efforts in addressing the rising costs of health insurance. **Mr. Kujala** supports maintaining salary levels, but cannot support using reduction in work force as a funding source. However, if this is the funding mechanism ultimately used, **Mr. Kujala** feels it will reinforce the

arguments for a pay raise since workloads will necessarily increase.

Opponents' Testimony:

Chuck Swysgood, Director, Budget and Program Planning Office, Governor's Office, stated it is difficult to stand in opposition to a state employees' pay raise, but he feels it is necessary to explain his perspective. HB 13, in its original form, offered state employees an amount of money to offset the additional cost of their health insurance premiums. The bill as it now stands is predicated upon a couple of factors, including HB 360. **Director Swysgood** expects further slippage in revenue to come from HJR 2. **Director Swysgood** commented state employees deserve a raise, but the fact is lack of revenue does not provide an opportunity to increase pay for state employees above what was in the original bill. This is also evidenced by a decrease in services provided to citizens by the State. The reasons directors from various departments did not testify before the House is because they were told not to appear. Therefore, **Director Swysgood** appeared and voiced their concerns on HB 360. HB 360 is the mechanism that pays the \$.45 per hour increase. The administration is opposed to that legislation in its current form since it pays one group of employees to terminate their employment while giving another group of employees a raise in pay. **Director Swysgood** will offer an amendment to address the shortfall in resources in health insurance costs. This will have the state agencies assume the additional cost which will add .5 percent to the overall operation of the agencies.

(Tape : 1; Side : B)

John McEwen, Administrator, State Personnel Division, Department of Administration, submitted a proposed amendment to HB 13.

EXHIBIT (fcs74a04) **Mr. McEwen** explained the amendment changes the effective date of the state share increase for agencies from January until July. Changing the effective date will increase funding in the health plan by \$3.1 million the first year and \$3.4 the second year. This money will be quite helpful in getting reserve levels up. In the meantime, changes will have to be made to the plan, and there will be increases in out-of-pocket premiums paid by employees for coverage. **Mr. McEwen** was uncertain how much those increases would be. **Mr. McEwen** submitted a summary of the Key Elements of Introduced and Amended versions and Relevant Background Information to the Committee.

EXHIBIT (fcs74a05) The rate of retirements have increased, as well as the benefits those retirees leave with, such as large sick and annual leave balances.

Questions from the Committee and Responses:

SEN. MIKE COONEY asked **Mr. Lovshin** to provide information as to why he opposes the amendment.

Mr. Lovshin understands the amendment to move the date from January to July and start the employee contributions earlier. He feels there are benefit changes to help alleviate cost overruns. The State Employee Group Benefits Advisory Council have addressed some of the cost overruns and how they can afford them in light of the January effective date. If there is additional money, it should go into salaries, as opposed to health insurance.

SEN. COONEY asked **Director Swysgood** to explain how the proposed costs would be absorbed by an agency's budget.

Director Swysgood explained the costs would be absorbed by a forced one-half percent vacancy savings in addition to the existing four percent.

SEN. LINDA NELSON asked **Mr. McEwen** to explain what the fiscal note would be with the \$.45 per hour pay increase.

Mr. McEwen replied the increase would represent \$13 million from the general fund and referred to Exhibit 5. The \$8.1 million will just cover the insurance. The insurance increases \$44 each month and \$50 the second year. That is the employer share per FTE.

Closing by Sponsor:

REP. LEWIS explained it is a confusing issue because discussions necessarily must include HB 360, HB 363, and HB 2. The bottom line is that state employees understand that in order to get .45 an hour, they have give up some things under HB 2, and they agree to do that. The cost of health insurance is going to escalate dramatically. If they are able to partially offset the increase in this biennium and take provisions out of HB 2 to do that, he is comfortable in making that proposal. He agrees this is a tough issue.

HEARING ON HB 120

Sponsor: **REP. RALPH LENHART, HD 2, Glendive**

Proponents: **Harold Blattie, Montana Association of Counties
Deputy Wayde Cooperider, Montana Sheriffs'
and Peace Officers' Association
Captain Dennis McCave, Yellowstone County**

Sheriff's Department
Corporal Sheenagh Lee, Dawson County Detention
and Correction Facility
Mike McMeekin, Missoula County Sheriff/Coroner
Kent Funyak, Cascade County Undersheriff
Jim Smith, Montana Sheriffs'
and Peace Officers' Association
Don Hargrove, Gallatin County

Opponents: **Kelly Jenkins, General Counsel,**
 Montana Public Employees' Retirement Board

Opening Statement by Sponsor:

REP. RALPH LENHART, HD 2, Glendive, opened by stating the purpose of the bill is to allow detention officers to transfer from the **Public Employees Retirement Division (PERD)** lists to the **Sheriff's Retirement System (SRS)**. The **State Administration and Veteran Affairs Interim Committees**, which met the past two years, unanimously voted to support this as a committee bill. At that time, they had the full support of **PERD** and **SRS**. The bill will also provide a six-month window of opportunity for officers currently employed by a sheriff's office to choose whether to switch or remain with **PERS**. The bill will require all new hires to become members of the **Sheriff's Retirement System**. This bill is important to county sheriffs' offices because the complexion of county law enforcement has changed dramatically over the years. With the growth of regional prisons, county detention officers now outnumber deputies. The old image of a jailor who cooked, cleaned, and took care of prisoners is an image in the past. Detention officers today are professionals with training requirements. Prisoners now can have any number of chronic, contagious, and potentially dangerous health conditions. A twenty-year retirement would also help alleviate recruitment and retention expenses for sheriff's offices. In addition, it would provide a career ladder for detention officers. **REP. LENHART** is aware amendments will be proposed to HB 120, and stated he is "a little burned" by the amendments since he was neither contacted by the person who drafted the amendments nor did he receive a copy of the amendments. **REP. LENHART** rejects the proposed amendment since he feels the amendment could kill the bill. He noted there were additional proponents who would have liked to testify, but because of the change in hearing dates, they were unable to attend the hearing.

Proponents' Testimony:

Harold Blattie, representing the Montana Association of Counties, supports the bill. He has heard some concerns from counties related to added costs in the future due to the increased rate applied against salaries. They see this as enhancing retention, which will result in savings to the counties by requiring less retraining costs.

Wayde Cooperider, Montana Sheriffs' and Peace Officers' Association, and Deputy Sheriff in Lewis and Clark County, provided the Committee with an overview of the process they have gone through since 2000. The intent of the bill is to narrowly limit the transfer to those employees who are detention officers of a sheriff, not state corrections nor private facilities. There are currently recruitment retention issues statewide, as well as a parity issue. Detention officers at the county level are the only corrections people who do not currently have a twenty-year retirement system. Based on figures and surveys the past year, there are 421 detention officers statewide. There is a 73 percent turnover rate in a less than five-year employment period. This will translate into people who are not vested in the retirement system and a positive cash impact should they come into **SRS**. Going from a thirty-year system to a twenty-year system will make this more of a career track. Many people will be more willing to put in twenty years, as opposed to thirty. **Mr. Cooperider** testified they went to an interim committee in 2000. The bill first proposed to be introduced in the 2001 session was pulled in an effort to get issues hammered out. In June 2001, they started meeting with **PERD** staff and asking questions. It was determined that if all 421 officers left the **PERD** and transferred to **SRS**, it would not have a negative impact on **PERD**, since they essentially were a drop in the bucket. In contrast, the **SRS** would experience a positive reaction. **PERD** made presentations to a number of detention centers around the state and explained the impacts of the transfer to detention officers. The definition of "detention officer" became an issue and they worked closely with the **PERD** board to come up with a satisfactory definition. The plan received unanimous support from the interim committee, and it was going to be a committee bill. There was concern from some **PERD** board members that detention officers are not law enforcement officers and do not experience the same stress and endangerment as law enforcement officers. **Mr. Cooperider** strongly disagreed with that analysis and presented letters from Detention Officers **Sergeant Sonny Silverthorne EXHIBIT(fcs74a06)** and **Heather Ward EXHIBIT(fcs74a07)**. **PERD** has now decided not to support the legislation because of the definition of "detention officer." **Mr. Cooperider** stated he was very surprised at this decision. Many people from other counties had intended to testify as proponents, but were unable to make the hearing. Locally, the larger counties will feel the greatest

impacts, and those counties are willing to accept the impacts as evidenced by proponents attending the hearing. These additional costs will be phased in gradually. **Mr. Cooperider** emphasized that HB 120 parallels the intent of public employees having parity in employment. County detention officers are the only group not offered a twenty-year retirement system, and **Mr. Cooperider** feels they deserve it. **Mr. Cooperider** agreed with **REP. LENHART** and urged the Committee to reject any proposed amendments.

Dennis McCave, Yellowstone County Sheriff's Department, submitted written testimony as a proponent of HB 120. **EXHIBIT(fcs74a08)**

Corporal Sheenagh Lee, Dawson County Detention and Correction Facility, Glendive, is a supervisor who balances what is beneficial for the detention officers and the needs of the county. She has noticed an omission in the fiscal note which shows there is no fiscal impact on the state budget. There is no acknowledgment that the State contributes one-tenth of one percent to **PERS** that is not being given to **SRS**. Therefore, using the assumptions in the fiscal note, this would represent an annual savings to the State in excess of \$10,000. The Fiscal Note also makes the assumption that all detention officers will transfer to **SRS** and she feels this is far from accurate in Dawson County. The cost for **Corporal Lee** to transfer, for instance, is a sizeable sum for four and one-half years of service. While **Corporal Lee** feels it would be worth the cost to transfer, she knows several co-workers who do not feel the same. The fiscal note also states the average detention worker is 39.2 years of age, with 4.7 years of service. **Corporal Lee** testified in Dawson County the median age is much younger. She believes there will be a change in the make up of the average detention officer, if they are allowed to switch to the **SRS**. **Corporal Lee** submitted a spreadsheet comparing **PERS** and **SRS** for one officer over a thirty-year time period based upon the pay matrix at the Dawson County facility. **EXHIBIT(fcs74a09)**. The spreadsheet shows a definite increase to the county in retirement contributions, but the cost will be more than offset by wage savings. Dawson County houses the same inmates as those inmates at **Montana State Prison (MSP)**, but Dawson County detention officers are not treated the same as correctional officers at **MSP**. Officers at the Dawson County facility do not carry weapons, only handcuffs and radios. Training is in hands-on, physical restraint. Their officers are trained at the Law Enforcement Academy and take an oath to protect the facility, the staff, the inmates, and the community.

Mike McMeekin, Missoula County Sheriff/Coroner, submitted written testimony as a proponent of HB 120. **EXHIBIT(fcs74a10)** He feels

this is a county issue because they spend a lot of money in recruitment and have a heavy investment in training. Counties are faced with struggling to retain detention officers. There will be no impact to the general fund by passing this legislation.

Kent Funyak, Undersheriff, Cascade County, agreed stating they employ approximately 60 detention staff. These people work in a stressful and dangerous environment and he feels to say otherwise is incredible. Detention officers need to be treated as professionals. In reviewing the proposed amendments, he is suspect as to why the important issues were not raised early on.

Jim Smith, representing the Montana Sheriffs's and Peace Officers' Association, supports HB 120 and offered to answer any questions or obtain further information for the Committee. The detention officers brought this issue up in 1997 in an effort to professionalize themselves. A large part of their motivation was eligibility for the SRS. Sheriffs agree that this is a high-stress professional job, and they support eligibility of detention officers for membership in **SRS**.

Don Hargrove, representing Gallatin County, strongly supports HB 120 mainly because of the retention opportunities it will create. He feels if a person sees a viable career ladder, they are more likely to enter the profession. If retention is increased, training costs will be decreased, and higher-quality employees will be the result due to experience and training. This bill has never really had any opposition until now. The criteria in the Interim Committee is they asked if when a detention officer goes to work in the morning, do they expect someone to be violent toward them. All detention officers have the opportunity to be hurt or have to defend themselves. **Mr. Hargrove** feels many of these individuals should retire after twenty years because they are no longer physically capable of handling inmates after a certain age.

Opponents' Testimony:

Kelly Jenkins, General Counsel, Montana Public Employees' Retirement Board, submitted written testimony in opposition to HB 120. **EXHIBIT(fcs74a11)** **Mr. Jenkins** also submitted Summary Tables to show the impact on SRS. **EXHIBIT(fcs74a12)** **Mr. Jenkins** stated if the Legislature is willing to take a gamble it will need to make a policy decision, and the Board will do its best to implement that decision. He agreed there could be easier recruitment and retention of detention officers. He wonders if offering this change in retirement will make up for low pay and inadequate respect from peers. What is at risk is millions of

dollars paid over time. **Mr. Jenkins** agreed not everyone who is a member will transfer over the **SRS**; however, it makes very little difference to **PERS** since they look at costs in terms of a thirty-year cost, and he recommended that is what the Committee should do as well. Eventually, they will all end up in **SRS** because long-term employees will transfer because it is to their long-term benefit. Short-term employees will eventually quit, and they will be replaced by employees who will be mandated into **SRS**. **Mr. Jenkins** opined that everyone in **PERS** will be transferred to **SRS** within five years. There will be increased costs guaranteed to both the county and the detention officers. **Mr. Jenkins** also feels that recruitment may not be as easy as depicted by proponents once the detention officer finds out how much he will need to contribute to **SRS** and the amount of their take-home pay. **Tape : 2; Side : B)** There will be an increased cost to the **SRS**. This is the backbone of the difficulty **PERS** has with the bill. There is no funding provided in HB 120, and Table 5 of Exhibit 12 shows **PERS** is paying out more than it is taking in. The last valuation in 2002 indicates the surplus will be gone in 2004, and they will have to ask the Legislature in the next session for money to make up the difference. Adding to this retirement system now, will increase the amount of money they will have ask for next session. There is also concern as to whether "detention officer" can be adequately defined. **Mr. Jenkins** stated this is virtually impossible for the **PERS** board to do. He feels there will never be a definition for "detention officer" that is as clear as "sheriff" or "deputy sheriff." The clear standard is that detention officers are required to take 12 weeks of training at the Law Enforcement Academy. Problems will arise from part-time detention officers. There is also a problem as to whether detention officers have to be certified and the rules are not clear. The Board of Crime Control says certification is required, but the **PERS** Board feels the rules are not clear.

Questions from the Committee and Responses:

SEN. DEBBIE SHEA noted that item No. 4 on Exhibit 11 talks about increased administrative confusion and wondered what that refers to.

Mr. Jenkins replied it means they would be more confused than they already are.

SEN. DEBBIE SHEA then asked if they told **SEN. TESTER** that **REP. LENHART** was opposed to the amendment, or if he discussed these amendments with anyone before he proposed the amendments.

Mr. Jenkins stated **REP. LENHART** heard about the amendments third-hand from their legal counsel. The specifics were provided to the lobbyists. They did not know what **REP. LENHART'S** position would be on the amendments before they were drafted. **Mr. Jenkins** considered the amendments to be friendly and honest and makes the bill more workable. **Mr. Jenkins** realizes that most legislators do not want to admit that what they are doing costs money because it makes their legislation unpopular with some people. **Mr. Jenkins** thought that in order to consider this bill honestly, funding must be discussed.

SEN. SHEA asked **Mr. Oberhofer, Missoula Chief of Police**, if radio dispatchers are considered detention officers because they perform a pat down of a female prisoner once a month and took detention officer training. **SEN. SHEA** wondered how he would classify detention officers.

Mr. Oberhofer believed a detention officer would be someone who has full-time or part-time responsibility for incarceration of an inmate, either state or county. In addition, he recommends for the safety of the dispatcher, as well as the inmate, they should take detention officer training.

SEN. SHEA wanted to know if it was clear as to what constitutes a detention officer.

Mr. Oberhofer stated when he hired someone, he gave them a title and a job description, so they would know if they were hired as a dispatcher or a detention officer.

SEN. JON TESTER asked **Mr. Jenkins** if his department had a role in preparing the fiscal note.

Mr. Jenkins replied they did.

SEN. TESTER wondered who pays the costs and assumed they are paid by the individual and the county.

Mr. Jenkins clarified there are a number of costs, and some are paid by the employer and some are paid by the employee in terms of the transfer from **PERS** to **SRS**. The rest of the costs are absorbed by the **SRS** Trust Fund. This would add to the disparity between the systems. One of the amendments that was drafted for funding provides for funding out of the general fund by adding a one-half a percent increase in costs to the **SRS**.

SEN. TESTER asked if the amendment is not passed for the state to pick up that half percent, whether it would be picked up by the counties.

Mr. Jenkins stated an alternative amendment would be to provide an increase in employer contributions by half a percent. Without any amendment, it would be added to the cost of the **SRS** and during the next Legislative Session, they will be asking for the \$.63 percent differential which currently exists in costs versus contributions. In addition, they will ask for the half a percent in costs added on by HB 120, for a total of 1.13 percent of additional contributions into that system. The Legislature will have to decide whether to fund that out of the general fund or whether to force the counties to pay.

SEN. TESTER stated it would not have to be done at the state level, but could be done at the county level, and wondered if a situation like this ever arose in the past.

Mr. Jenkins replied the system currently has no state contributions. Therefore, any increases in benefits have been either paid by the employee or the employer. In this instance, it has to be paid by the employer because they are not given a benefit increase to the current members of the system. You cannot charge the members for a benefit they are not receiving.

SEN. TRUDI SCHMIDT questioned **Mr. Hargrove** about his involvement on the Interim Committee.

Mr. Hargrove stated he was the chairman of the last Interim Committee. He stated **PERS** was available during the Interim Committee, and he is greatly surprised by **PERS** opposition to HB 120.

SEN. COONEY was curious how **Mr. Smith** feels about the half a percent payroll increase and where it will come from.

Mr. Smith is not privy to some information the Committee has received, but it has been his understanding for the last several sessions that the **SRS** was the healthiest of all the public retirement systems. He is surprised to know it is in stress, since he thought it was actuarially sound. They do not want to jeopardize the solvency of their own system.

SEN. COONEY was curious about the definition of "detention officer" and asked **Mr. Smith** to address this issue.

Mr. Smith replied throughout the interim, they have discussed the definition with **PERS**. He was under the impression they had

agreed on a definition last November. He was surprised to hear the big problem with the bill is with the definition. He feels the gray area lies largely in rural counties. In these counties detention officers are hired for multiple duties depending on staffing requirements. While there is some cross-over from time to time, most people are hired for a specific job named at the time of hire. **Mr. Smith** feels they can accommodate the definition very well. The new more-intelligent definition will hamstring some of the rural counties and detention centers.

SEN. ROYAL JOHNSON asked **Mr. Funyak** whether he knew about the proposed amendment and whether he was on the Interim Committee.

Mr. Funyak replied he was not on the Interim Committee and was just made aware of the amendments on Friday of the previous week. He was concerned that if these are such important issues that they need to be amended into the bill, where were they during the interim process.

SEN. ROYAL JOHNSON asked **Mr. Funyak** if he feels they are important amendments after having seen them.

Mr. Funyak did not have any information to base an opinion on, and stated he has no idea whether the amendments are important.

SEN. KEITH BALES stated he noticed the market value of the **SRS** is 95 percent compared to 83 percent.

Mr. Jenkins stated this is a snapshot as of a particular date. Since that date, the market has gone down. The question is where will it sit on June 30, 2004. Because the costs of benefits is higher than contributions, the system will be in trouble.

SEN. BALES wondered if they saw this coming, why didn't they come in with something to change the contribution amounts to solve the problem.

Mr. Jenkins did not feel anyone saw this economic perfect storm coming. The recent downturn in the stock market is virtually unprecedented. In the past, they have just been spending down a surplus.

SEN. BALES asked how **Mr. Jenkins** would suggest turning the two figures around. **SEN. BALES** thought they had to see this coming at the beginning of the session.

Mr. Jenkins stated one reason they did not ask for money is because this session, in particular, is not a good one to be seeking money. Most importantly, as long as the surplus remains

intact and an extra drag is not placed on it, they can stretch the money out and hope for a market turnaround. They need a 15 percent market increase by June 30, 2003, to make what they expected to be their earnings goal.

(Tape : 3; Side : A)

SEN. BALES stated Dawson County probably will be affected to a greater extent than other counties because of the high number of correctional officers it employs. **SEN. BALES** stated he thought he heard concern about the timing and the ability to get funding into the budget, and asked **REP. LENHART** if he had taken that into account.

REP. LENHART responded that is a great concern. His personal feeling is the amendment is an effort to kill the bill.

SEN. BALES stated the counties are going to have to pick up an additional amount, and he is wondering how the counties are going to be able figure that additional amount into their budgets. He is worried about the timing with the counties and their budget cycles.

SEN. JOHN ESP stated he knows that you do not get something for nothing and somebody will pay the increased costs and wanted to know from **REP. LENHART** why he is resistant to the amendment.

REP. LENHART explained he is opposed to the amendment simply because no one came to him first as sponsor of the bill. It is late in the session to be bringing these types of amendments forward. The employees are willing to place the additional money into the retirement system.

SEN. GREGORY BARKUS stated the largest detention facility in the state is **MSP** and he asked how the corrections staff is covered for retirement benefits.

REP. LENHART explained **MSP's** correction staff are covered by the **Sheriff and Peace Officer's Retirement System**.

SEN. SCHMIDT wondered why the amendments did not appear in the House and noted the market has been down for almost two years and asked if that is the main issue.

Mr. Jenkins stated it might be said they underestimated the House's willingness to gamble. They did try, through the course of the presentation in **House Appropriations Committee**, to point out the definition was a problem because often times people who are not detention officers, must act in that capacity. He does

not believe the intent of the bill is to include people in the **SRS** who perform a pat-down once every six months. The bill also skews the numbers in terms of the costing of the proposal. They cannot say with certainty who will be drawn in under the existing definition. Regarding the trend of the market, **Mr. Jenkins** felt an investment advisor would say trends are worthless in terms of determining what is going to happen in the market. They did not understand the full impact of the market being down, and did not know where the market was headed because nobody knew. The fact that they were operating with a surplus and the surplus went away would not have been a problem if contributions had been greater than money going out, but that is not the case with **SRS**. This is an inherent problem with **SRS** and not a market problem.

Closing by Sponsor:

REP. LENHART closed on HB 120 and stated that the **Montana Association of Counties (MACO)** also supports the bill. **REP. LENHART** stated he was told there would be an amendment coming, but never saw it. **REP. LENHART** felt the **State Administration Committee** put quite a bit of work into the bill and he was happy with the resulting definition. **REP. LENHART** felt a pat down does not qualify someone as a detention officer. He feels the definition refers to someone who does this as a major part of their job. A 73 percent turnover rate of detention officers within a five-year period puts a huge cost on the counties for retraining. HB 120 will help alleviate this cost.

CHAIRMAN ZOOK recessed the **Senate Finance Committee** at 12:04 and the hearing reconvenes at 3:00 p.m.

HEARING ON HB 5

Sponsor: **REP. DAVE KASTEN, HD 99, Brockway.**

Proponents: **Tom O'Connell, Administrator,
Architecture and Engineering**

Opponents: **None.**

Opening Statement by Sponsor:

REP. DAVE KASTEN, HD 99, Brockway, brought HB 5 for the **Long-Range Building Committee**. **REP. DAVE KASTEN** explained that HB 5 establishes the priorities and funding levels for the state's long-range building program. **REP. DAVE KASTEN** submitted a Project List As Amended by the Long-Range Planning Subcommittee. **EXHIBIT (fcs74a13)**. A balance sheet was also submitted as

EXHIBIT(fcs74a14) 128 projects totaling \$259 million were originally submitted for funding under this program. Out of these requests, 41 are included in HB 5 for a total of \$78.4 million. For the first time since the 1989 biennium, there is not a bond program, but a cash-only program. The cash mostly comes from the cigarette tax and the coal severance tax. This bill will help with the basic upkeep needs of over 4,100 state-owned facilities valued at approximately \$2.3 billion. **REP. DAVE KASTEN** explained more funds became available because HB 177 failed. Therefore, he offered Amendment HB000504.acd.

EXHIBIT(fcs74a15) This amendment adds \$220,000 for the Hazardous Material Mitigation Fund, statewide, which is a project that removes hazardous materials from state facilities. The second project will be to replace and update Health Sciences at the **University of Montana** in Missoula, upgrade the Spratt Building and campus electrical at **Warm Springs**, reconstruct the canal bridge at **MSU-Billings**, and then allocates \$175,000 to the schematic design at **UM-Helena College of Technology**. These funds were actually put out last session, but some of the funds were taken back during special session. There is an ending balance of \$28,000.

Proponents' Testimony:

Tom O'Connell, Administrator of Architecture and Engineering, supports HB 5 and has worked on it for two years with cooperation of all the agencies. He feels this is a lean, mean building program and will take care of the investment already made in state facilities.

Opponents' Testimony: None.

Questions from the Committee and Responses:

SEN. BILL TASH asked **General Mosley** if he is familiar with the Dillon Armory project and the fact that proceeds of the sale must be deposited in the general fund for the purpose of bonding the new armory. **SEN. TASH** was curious if sale negotiations have been occurring.

General Mosley responded they have not been negotiating the sale of the Dillon Armory, but they are negotiating a land trade. In the preliminary stages, they are contemplating trading the facility and the land it is on for the adjoining land.

SEN. LINDA NELSON submitted a proposed Amendment HB000501.atp for the Committee's consideration. **EXHIBIT(fcs74a16)** This amendment

will provide spending authority from the state special revenue account to fund the Brush Lake Acquisition.

Doug Monger, Montana Department of Fish, Wildlife, and Parks, testified that a search committee in Eastern Montana identified Brush Lake as a property that could be acquired for a State Park. Provided **Sen. Mahlum's** Park License Plate bill passes, there will be funding available to fund the purchase.

Upon question from **SEN. BALES, Jeff Hagener, Director of the Montana Department of Fish, Wildlife and Parks,** explained that Habitat Montana allows for the acquisition of easements or fee title.

(Tape : 3; Side : B)

SEN. ESP asked **Director Hagener** if he was referring to \$7 million.

Director Hagener stated yes, this would give the authority to use that money within that program, but through the last couple of legislative sessions, the direction has moved very strongly away from acquisitions. Most of what they have pursued during the last couple of years have been conservation easements and leases, although people are not very interested in leases.

SEN. ESP then questioned how much money was spent for maintenance.

Director Hagener could not give exact figures, but stated easements are mostly monitored.

SEN. ESP expressed concerns about weed control and wondered if money could be directed toward weed control.

Director Hagener explained that for the properties they have fee title on, a portion of their monies are directed toward weed control. In the last fiscal year, they spent approximately \$600,000 on weed control for all their properties.

SEN. ESP observed, and commented, that it was not enough.

SEN. BALES asked for a list of the different projects they are working on.

At the request of **CHAIRMAN ZOOK, Director Hagener** explained Montana Habit funds come from 80 percent of the nonresident fees for the purpose of acquiring wildlife habitat. **Director Hagener**

explained he could put together the best list possible of projects they are currently working on.

SEN. EDWARD BUTCHER asked why if thirty percent of the state is already publicly owned, they continue to spend \$10 million a year to acquire more.

Director Hagener responded that what is requested in HB 5 is on the ground monies for established programs. These programs were established by past legislative actions which create pots of money specifically for those projects.

CHAIRMAN ZOOK commented there is no discretion to spend this money in another way.

SEN. BUTCHER's concern is that he sees more and more land acquired and is concerned about the overall management. **SEN. BUTCHER** asked how many acres were purchased in the last biennium.

Director Hagener did not know the exact number. The largest easement was in conjunction with Plum Creek on the west side of the divide. He believed it was 114,000 acres, but the land was purchased with a combination of money from different sources.

SEN. TESTER asked if they are actively seeking these easements or if the owners are approaching the state.

Director Hagener explained they are voluntary agreements, and they have more people than they can deal with knocking at the door right now. Therefore, they do not have to actively seek easements to purchase.

When **SEN. TESTER** asked why there are so many people looking to sell easements, **Director Hagener** replied it was because of the tax benefits and current economic difficulties experienced by farmers and ranchers. In addition, it gives an opportunity to preserve the easement for the future.

CHAIRMAN ZOOK stated that FHA borrowers were having difficulties, and this would allow them to solve their problems.

SEN. TASH stated he is currently involved in an agreement with **Fish, Wildlife and Parks** under the 526 program. The program involves conservation practices, which they know to be good programs, but they cannot figure out how to pay for them. It does not diminish the use of the property.

SEN. McCARTHY asked about the Big Horn Sheep enhancement on line 19, and asked what areas of the state they would be working in.

Director Hagener replied they have been primarily working on the Thompson Falls area. They also are looking at an area north of Winifred along the Missouri Breaks.

SEN. McCARTHY then asked if they were still doing transplants.

Director Hagener replied they did do some transplants this year that came from the Missouri Breaks herd. **Director Hagener** further explained that when you have high populations of Big Horn Sheep, they tend to be susceptible to pneumonia. This is one of the reasons they like to keep the herds at a sustainable level.

Closing by Sponsor:

Rep. Kasten closed by stating HB 526 created a voluntary program and it was discussed in Long Range. They had decided they would like to get away from easements and get into some long-term lease agreements. Regarding **SEN. NELSON's** amendment, **Rep. Kasten** reported they looked at that area and Brush Lake was high on their list of priorities.

HEARING ON HB 9

Sponsor: REP DAVE KASTEN, HD 99, Brockway

Proponents: Carleen Layne, Accountant, Arts Council

Opponents: None.

Opening Statement by Sponsor:

REP DAVE KASTEN, HD 99, Brockway, submitted a list of the Cultural Aesthetic Grants **EXHIBIT(fcs74a17)** stating the Cultural Trust was established in 1976 with a small portion of coal tax and reached a high of \$7.5 million when \$4 million was transferred to the **Historical Society** for the purchase of Virginia City during the 1997 session. At that time, the **Arts Council** was promised that they would be held harmless and funds would be forthcoming to make up half of the interest lost from the transfer. The general fund has been used to backfill the lost interest. The committee that puts these grants together consists of eight members from the **Arts Council** and eight from the **Historical Society**. Grants awarded by HB 9 total \$804,150. These grants benefit all things cultural in the state, including art, history, and humanities, as well as every community and county both large and small. These grant funds also generate additional cash matches and serve as a stamp of approval when these organizations seek funding from other public and private

funds. During the Special Session, the average cut was 3.5 percent. So far, they have cut the **Art Council** 20 percent.

Proponents' Testimony:

Carleen Layne, Accountant for the Arts Council, stated the Arts Council had 98 requests for \$2.7 million and the Committee recommended 81 of those grants. Revenue projections are \$659,000. If the trust had been left intact, that figure would be \$1.3 million.

Opponents' Testimony: None.

Questions from the Committee and Responses:

SEN. TESTER thanked the participants on the **Arts Council**.

Closing by Sponsor:

REP. KASTEN closed by stating cuts were taken up front. There was talk about taking a few dollars out of the bed tax to help this bill out. **REP. KASTEN** will look at doing that again because he believes it is a good way to go.

EXECUTIVE ACTION ON HB 9

Motion: **SEN. COONEY** moved **HB 9 BE CONCURRED IN**.

Discussion:

SEN. ESP asked if there was a ranking system used in determining grant recipients.

CHAIRMAN ZOOK explained the secretary kept track of where they were at and kept an ongoing running total. They very seldom disturbed recommendations since a lot of time was spent during the interim making these decisions.

SEN. ESP noted the biggest grant was to the Montana Committee for the Humanities.

Ms. Layne explained that grant is to provide support for the Speakers' Bureau that travels around the state to work with local nonprofit organizations. Every two years they have a new roster of speakers on topics that include Montana culture, history and literature, Native American topics, and culture and public affairs. In 2003-04, there are 77 speakers with 96 different

presentations. The Montana Committee for the Humanities is well thought of and they cover the whole state.

SEN. JOHNSON asked if he heard correctly that they were one half million short.

Ms. Layne clarified that she mis-spoke and they are approximately \$150,000 to \$200,000 short.

SEN. JOHNSON understood the funding would only be half and the other half would come from the general fund. He asked if they expected to earn \$659,000.

Ms. Layne responded it is a biennial figure. The biennial earnings would be \$659,000 and the \$499,150 is from the general fund.

SEN. JOHNSON would like to ensure the general fund is picking up exactly half since that was the agreement. It appears they are \$150,000 short over the biennium.

SEN. SCHMIDT felt the list is impressive when you look at all the cultural activities throughout the state. She is interested in what the Moose Horn Club is.

Ms. Layne explained the Moose Horn Club is a little schoolhouse in Pinkum Creek. In 1946 the school district was consolidated with the Eureka school district. The Moose Horn Club was established in 1955 and leases the vacant school building and grounds from the school district with the agreement that they will maintain the property in exchange for use of the schoolhouse, which is used as a community center. The committee felt the area is depressed and was impressed by the actions of the local people to save the schoolhouse.

SEN. RICK LAIBLE asked if the same groups usually receive grants each biennium.

Ms. Layne was not sure of the percentage of repeat funding, but stated there was a lot of new organizations this year. There was high percentage of operating support grants. **Ms. Layne** offered to put together that information for **SEN. LAIBLE**.

(Tape : 4; Side : A)

Vote: **SEN. COONEY's** motion that **HB 9 BE CONCURRED IN** carried **UNANIMOUSLY** with **SEN. SHEA** voting by proxy. **SEN. JOSEPH TROPILA** will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 5

Motion: SEN. McCARTHY moved HB 5 BE CONCURRED IN.

Motion: SEN. NELSON moved Amendment HB000501.atp BE ADOPTED.

Vote: SEN. NELSON's motion that Amendment HB000501.atp BE ADOPTED carried UNANIMOUSLY with SEN. SHEA voting by proxy.

Motion: SEN. COONEY moved Amendment HB000504.acd BE ADOPTED.

Vote: SEN. COONEY's motion that Amendment HB000504.acd BE ADOPTED carried UNANIMOUSLY with SEN. SHEA voting by proxy.

Motion: SEN. McCARTHY moved HB 5 BE CONCURRED IN AS AMENDED.

Vote: SEN. McCARTHY's motion HB 5 BE CONCURRED IN AS AMENDED carried UNANIMOUSLY with SEN. SHEA voting by proxy. SEN. TESTER will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 7

Motion: SEN. JOHNSON moved HB 7 BE CONCURRED IN.

Vote: SEN. JOHNSON'S motion that HB 7 BE CONCURRED IN carried UNANIMOUSLY, with SEN. SHEA voting by proxy. SEN. JOHNSON will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 261

Motion: SEN. STAPLETON moved HB 261 BE CONCURRED IN.

Discussion:

SEN. STAPLETON refreshed the Committee members by stating new amendment HB026104.atp **EXHIBIT(fcs74a18)** will fund the new IT, not from HB 18, but with HB 261 by providing a \$3 increase for watercrafts, snowmobiles, and off-highway vehicles. The IT people were very competent and presented a much better system. These amendments will allow HB 18 to go away at the end of June and fund the court IT at the same level of \$1.8 million a year.

SEN. McCARTHY explained that when she was using the Search and Rescue money out of the same funds, she ran into federal legislation that prohibited transferring some of that money.

SEN. McCARTHY asked if SEN. STAPLETON had cleared this idea with the Department.

SEN. STAPLETON replied that he discussed this with **Greg Petesch, Legislative Services**, who stated the bill was broad enough, so they drafted the amendment. He had also discussed this idea with **Chief Justice Karla Gray, Larry Fassbender, Department of Justice**, and other interested individuals.

SEN. ESP directed the Committee to look at the back of Exhibit 18 and the information there.

SEN. LAIBLE stated in past session they have reduced vehicle registration fees and on this particular bill the funding originally would go to IT funds to aid in licensing and registration. Now, the funding will cross over to court systems. He feels uncomfortable about the cross-funding.

SEN. TESTER asked if the money is going to be used for vehicle registration, licenses, and titles.

SEN. STAPLETON explained this revenue source is going to fund the **Department of Justice** computer system which is a \$22.5 IT project. He feels this is a very comprehensive project. The court system is different than the **Department of Justice** system. They are separate systems. When the courts came forward with the IT project, they were not organized. For eight years, they had collected \$900,000 a year and no one knew where it went. There was a letter that **CHAIRMAN ZOOK** received about the court system IT.

SEN. TESTER asked if the fees for watercraft, snowmobiles, and off-highway vehicles will go to fund the **Department of Justice** IT.

SEN. STAPLETON clarified \$1.8 will be for the Judiciary, and a portion will go to the bonding for the **Department of Justice**. It is one revenue source that would have two systems.

SEN. TESTER wanted to know the total amount these fees would bring in. Specifically, if \$1.8 goes to Judiciary, he would like to know how much will go to the **Department of Justice**.

SEN. STAPLETON did not have an exact amount, but stated the \$3 is meant to cover the cost for the Judiciary. It will take a while before the **Department of Justice** system is up and running.

SEN. SCHMIDT asked if the \$3 increase will cover all vehicles.

SEN. STAPLETON feels if \$3 brought in \$3 million, the increase will bring \$8 to \$9 million into the state special revenue account.

Ms. Taryn Purdy estimated it would bring in \$2.5 million every year, so over the biennium she estimated it would bring in \$5 million.

SEN. EMILY STONINGTON noticed the bill raises the bonding capability from \$4.5 to \$22.5 million and wondered if this required a two-thirds vote.

SEN. STAPLETON thought it does, and stated it is a bonding bill. Regardless of whether it is amended, it will need a two-thirds vote. **SEN. STAPLETON** stated the amendment will not affect the bonding.

SEN. BARKUS stated they have a lot of bills addressing decal registration, tags, and park access fees and he wanted clarification that this is only on certificates of registration.

SEN. STAPLETON replied Nos. 1, 2, and 3 on the fiscal note are what will be covered.

SEN. JOHNSON stated on page 4, line 15, the amount is raised from \$4.5 million to \$22.5 million, but it does not refer to bonds. Page 2 of the fiscal note, No. 7, refers to \$18 million. He feels it is a loan and not a bond, and also wonders about the discrepancy in the amounts.

SEN. BALES commented he supports this because his constituents are concerned about raising these fees, and he feels this is the lesser of two evils.

Motion: **SEN. STAPLETON** moved **Amendment HB026104.atp** BE ADOPTED.

Discussion:

SEN. ESP asked **Mr. Swysgood** to comment.

Mr. Swysgood stated the pink fiscal note only relates to HB 261 and does not include **SEN. STAPLETON's** amendment. All the money generated goes to the **Department of Justice** to pay back the loan from the **Board of Investments**. He has not seen the amendment being offered but because they are increasing the fee by \$3, the money generated for the Judiciary IT needs to be separated. He does not want to see the money go into one pot and then attempt to separate it out. **Mr. Swysgood** feels the monies need their own separate identities so it can be tracked.

Ms. Purdy commented there is a separate account from which the court will spend their money. It is not, however, segregated automatically. The money will all go into one account and will then be transferred out.

SEN. STAPLETON has spoken with just about everyone he could think of who would be interested or involved, and the **Chief Justice** felt she had no choice but to come with HB 18. She likes this suggestion because it is more broad-based. It is the same amount of money, but a superior source of revenue.

SEN. JOHNSON asked no matter what the value of the craft is, if the assessment would be the same.

(Tape : 4; Side : B)

SEN. STAPLETON replied that is correct.

SEN. JOHNSON was surprised no one had objected to that assessment method.

Vote: **SEN. STAPLETON's** motion that **Amendment HB026104.atp BE ADOPTED** carried with **SEN. LAIBLE** voting no, and **SEN. SHEA** voting by proxy.

Motion: **SEN. STAPLETON** moved **HB 261 BE CONCURRED IN AS AMENDED**.

Vote: **SEN. STAPLETON's** motion that **HB 261 BE CONCURRED IN AS AMENDED** carried with **SENATORS LAIBLE, BUTCHER, JOHNSON** and **SCHMIDT** voting no, and **SEN. SHEA** voting by proxy. **SEN. STAPLETON** will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 18

Motion: **SEN. STAPLETON** moved **HB 18 BE INDEFINITELY POSTPONED**.

Vote: **SEN. STAPLETON's** motion **HB 18 BE INDEFINITELY POSTPONED** carried **UNANIMOUSLY** with **SEN. SHEA** voting by proxy.

EXECUTIVE ACTION ON SB 72

Motion: **SEN. STONINGTON** moved **SB 72 BE INDEFINITELY POSTPONED**.

Vote: **SEN. STONINGTON's** motion that **SB 72 BE INDEFINITELY POSTPONED** carried with **SEN. ESP** voting no, and **SEN. SHEA** voting by proxy.

EXECUTIVE ACTION ON SB 388

Motion: SEN. TASH moved SB 388 BE INDEFINITELY POSTPONED.

Vote: SEN. TASH's motion that SB 388 BE INDEFINITELY POSTPONED carried UNANIMOUSLY with SEN. SHEA voting by proxy.

EXECUTIVE ACTION ON SB 134

Motion: SEN. ESP moved SB 134 BE INDEFINITELY POSTPONED.

Vote: SEN. ESP's motion that SB 134 BE INDEFINITELY POSTPONED carried UNANIMOUSLY with SEN. SHEA voting by proxy.

EXECUTIVE ACTION ON HB 19

Motion: SEN. TASH moved HB 19 BE INDEFINITELY POSTPONED.

Vote: SEN. TASH's motion HB 19 BE INDEFINITELY POSTPONED carried with SENATORS ESP, BARBUS, LAIBLE, and BUTCHER voting no, and SEN. SHEA voting by proxy.

EXECUTIVE ACTION ON SB 18

Motion: SEN. ESP moved SB 18 BE INDEFINITELY POSTPONED.

Vote: SEN. ESP's motion that SB 18 BE INDEFINITELY POSTPONED carried UNANIMOUSLY with SEN. SHEA voting by proxy.

EXECUTIVE ACTION ON HB 631

Motion: SEN. LAIBLE moved HB 631 BE CONCURRED IN.

Vote: SEN. LAIBLE's motion that HB 631 BE CONCURRED IN carried UNANIMOUSLY with SEN. SHEA voting by proxy.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG-CAP

EXHIBIT (fcs74aad)